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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

**The Contracts for Difference (Allocation) Regulations 2014**

**PART 7**

**Disputes and appeals**

**Disputes concerning non-qualification determinations: qualification appeals**

**43.**—(1) Where—

- (a) a non-qualification review notice has been given to an applicant;
- (b) in that notice, a non-qualification determination is upheld; and
- (c) the applicant disputes that determination,

the applicant may apply to the Authority to determine that dispute (“a qualification appeal”).

(2) A qualification appeal must be made—

- (a) by notice to the Authority;
- (b) in such form and manner as the Authority requires; and
- (c) by no later than 5 working days after the date of the non-qualification review notice (“the appeals deadline date”).

**Requirements for qualification appeals**

**44.**—(1) A qualification appeal must contain—

- (a) a concise statement which—
  - (i) identifies the relevant part of the non-qualification determination in dispute; and
  - (ii) sets out the facts on which the applicant relies;
- (b) a summary of the grounds for disputing the non-qualification determination;
- (c) a succinct presentation of the arguments supporting each of the grounds for dispute; and
- (d) a schedule listing the documents submitted with the qualification appeal.

(2) A qualification appeal must be accompanied by copies of—

- (a) the non-qualification determination and the non-qualification review notice;
- (b) any information or evidence submitted to the delivery body in support of the non-qualification review; and
- (c) any other documentary evidence on which the applicant wishes to rely in support of the qualification appeal and which—
  - (i) was provided to the delivery body in support of the non-qualification review; or
  - (ii) is needed to show what evidence was before the delivery body when it upheld the non-qualification determination.

(3) A qualification appeal must not include any other documentary evidence.

(4) A copy of a qualification appeal must be sent by the applicant to the delivery body at the same time as it is sent to the Authority.

### **Notification and representations**

**45.**—(1) Where a qualification appeal has been made in accordance with regulations 43 and 44, the Authority must give a notice to the delivery body which—

- (a) identifies the applicant and the non-qualification determination; and
- (b) states that—
  - (i) a qualification appeal has been made; and
  - (ii) the delivery body may reply to the qualification appeal.

(2) The delivery body may reply to a qualification appeal where it receives a notice under paragraph (1) and such a reply must be given—

- (a) to the applicant and the Authority; and
- (b) by no later than 5 working days after the date of the notice given under paragraph (1).

### **Determinations of the Authority**

**46.**—(1) The Authority must determine a qualification appeal as soon as practicable.

(2) The determinations which the Authority may make are—

- (a) to uphold the non-qualification determination; or
- (b) that the applicant is a qualifying applicant.

(3) Where the Authority has made a determination, it must give a notice to the applicant and the delivery body which—

- (a) states the determination of the Authority; and
- (b) the date of the determination.

(4) A notice under paragraph (3) must be given of as soon as practicable after the date of the determination by the Authority.

### **Appeal to the High Court or Court of Session**

**47.**—(1) Where the Authority upholds a non-qualification determination, the applicant may make an appeal to the High Court or, in Scotland, the Court of Session, on a point of law.

(2) An appeal under paragraph (1) must be made by no later than 28 days after the date on which the notice is given under regulation 46(3) which states that the non-qualification determination is upheld.

### **Register of appeals**

**48.**—(1) The delivery body must establish and maintain a register of any qualification appeals (“the appeals register”).

(2) The appeals register must include details of—

- (a) the name of an applicant making a qualification appeal;
- (b) the CFD unit included in the non-qualification determination; and
- (c) when made, the determination of the Authority.

(3) The details of a qualification appeal must be removed from the appeals register as soon as practicable after one year from the date of the determination of the Authority in respect of that appeal.

(4) Subject to paragraph (5), the appeals register must be made publicly available.

(5) The delivery body must not make publicly available on the appeals register any qualification appeal made under an allocation round until after Part 6 applies to that round.